

Message Text

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ORIGIN ARA-20

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DRAFTED BY ARA-LA/PLC:RJBLOOMFIELD:CR

APPROVED BY ARA:JBKUBISCH

ARA:HWSHLAUDEMAN (DRAFT)

IO:AYODER (DRAFT)CIEP:JNIEHUS(DRF)

L/ARA:DGANTZ COMERCE:DARRIEL(DRF

L:MFELDMAN (DRAFT)

EB:MKENNEDY (DRAFT)

ECP:WKNEPPER (DRAFT)

TR:JEINHORN (DRAFT)

TR:MLAKE (DRAFT)

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FM SECSTATE WASHDC

TO ALL AMERICAN REPUBLIC DIPLOMATIC POSTS PRIORITY

C O N F I D E N T I A L STATE 134734

E.O. 11652: N/A

TAGS: PFOR MFM

SUBJECT: MFM WORKING GROUP ON TRANSNATIONAL ENTERPRISES

REF: STATE 92124; 111288

THE HURPOSE OF THIS MESSAGE IS TO PROVIDE THE EMBASSY
WITH AN OUTLINE OF THE PROPOSAL THE U.S. INTENDS TO MAKE
AT THE FORTHCOMING ORGANIZATIONAL MEETING OF THE MFM
WORKING GROUP ON TRANSNATIONAL ENTERPRISES. WE ASK THAT,
UNLESS YOS BELIEVE IT WOULD BE COUNTERPRODUCTIVE, YOU
CONVEY THE SUBSTANCE OF THIS POSITION TO THE FOREIGN
MINISTRY AND OTHER APPROPRIATE AGENCIES SO THAT YOUR
COUNTRY'S DELEGATES AT THE JULY 8-11 MEETING WILL BE
PREPARED TO REACT. IF THE EMBASSY WISHES, IT MAY DO SO
IN THE FORM OF AN AIDE MEMO RE BASED ON THIS MESSAGE.

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1. THE DECISION OF THE FOREIGN MINISTERS TO CREATE A WORKING GROUP ON TRANSNATIONAL ENTERPRISES PROVIDES AN OPPORTUNITY FOR THE PARTICIPATING GOVERNMENTS TO DISCUSS THE COMPLEX AND OFTEN CONTROVERSIAL ISSUES ARISING FROM THE OPERATIONS OF MULTINATIONAL ENTERPRISES IN AN ATMOSPHERE OF PRIVACY AND INFORMALITY AND IN A SPIRIT OF MUTUAL COOPERATION. THE U.S. BELIEVES THAT THE WORKING GROUP CAN MAKE A USEFUL CONTRIBUTION TO REDUCING MISUNDERSTANDING AND CONFLICT BETWEEN GOVERNMENTS IN THE AMERICAS OVER THE QUESTION OF FOREIGN PRIVATE INVESTMENT WHICH HAS AT TIMES VEXED RELATIONS. WE LOOK FORWARD TO A DISCUSSION OF THESE ISSUES IN A NON-LEGALISTIC AND NON-POLEMICAL ATMOSPHERE IN WHICH THE PARTICIPANTS CAN TALK ABOUT THE PRACTICAL AND CONCRETE PROBLEMS THAT ARISE IN CONNECTION WITH THE OPERATIONS OF FOREIGN ENTERPRISES IN LATIN AMERICA AND WAYS IN WHICH GOVERNMENTS MIGHT COOPERATE TO MINIMIZE FRICTIONS AND TO MAXIMIZE THE CONTRIBUTIONS THESE ENTERPRISES CAN AND DO MAKE TO LATIN AMERICAN DEVELOPMENT. SUCH A DISCUSSION WOULD NOT DPLICATE BUT WOULD COMPLEMENT THE EXAMINATION OF THIS MATTER THAT IS TAKING PLACE UNDER THE UN-ECOSOC BY BRINGING OUT DETAILS ON THE OPERATIONS OF MNCs IN LATIN AMERICA.

2. IN THIS SPIRIT THE U.S. DELEGATION WILL PROPOSE THAT INITIALLY THE WORKING GROUP ATTEMPT TO EXAMINE THE WORKINGS AND THE IMPACT ON DEVELOPMENT OF TRANSNATIONAL CORPORATIONS IN ORDER TO PROVIDE A FACTUAL AND CONCRETE BASIS FOR LATER DISCUSSIONS OF PRINCIPLES APPLICABLE TO SUCH ENTERPRISES. ONE WAY IN WHICH THIS MIGHT BE ACCOMPLISHED WOULD BE TO CONDUCT SEVERAL ROUND-TABLE MEETINGS AT WHICH THE MEMBERS OF THE WORKING GROUP COULD HAVE THE BENEFIT OF PRESENTATIONS ON SPECIFIC ASPECTS OF THE MULTINATIONAL CORPORATION BY EXPERTS FROM BOTH LATIN AMERICA AND THE INDUSTRIALIZED COUNTRIES. (WE HOPE THAT THE SAME INDIVIDUALS WILL ATTEND ALL THE MEETINGS OF THE WORKING GROUP SO AS TO PROVIDE CONTINUITY AND TO BUILD A SPIRIT OF CONFIDENCE AMONG THEM.) SUCH EXPERTS MIGHT INCLUDE

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ACADEMIC SPECIALISTS ON THE MULTINATIONAL CORPORATION, BUSINESSMEN WITH EXPERIENCE IN SUCH CORPORATIONS, REPRESENTATIVES OF LATIN AMERICAN FIRMS WHO HAVE HAD EXPERIENCE IN DEALING WITH MNCs, AS WELL AS GOVERNMENTAL EXPERTS. FOR EXAMPLE, WE MIGHT HAVE A FIRST ROUND-TABLE MEETING IN SEPTEMBER WITH THE GENERAL THEME: "MNC OPERATIONS AND HOST COUNTRY DEVELOPMENT". SUCH A ROUND-TABLE DISCUSSION COULD

INCLUDE (1) "MNCS - HOW THEY OPERATE, THE VARIABLES THEY NONSIDER IN DECISION-MAKING," AND (2) HOW THE HOST GOVERNMENT VIEWS THE MNC IN THE DEVELOPMENT PROCESS. THE SECOND ROUND-TABLE COULD BE HELD IN OCTOBER WITH THE GENERAL THEME: "INTERACTION OF GOVERNMENTS AND MNCS". UNDER THIS TOPIC THE WORKING GROUP COULD DISCUSS PROBLEMS THAT ARISE BETWEEN THE ENTERPRISE AND THE HOST GOVERNMENT AND WHICH MAY REQUIRE INTER-GOVERNMENTAL COOPERATION ON OCCASION. SUCH ISSUES COULD INCLUDE (1) PROBLEMS OF TAX JURISDICTION; (2) TRANSFER PRICING; (3) RESTRICTIVE BUSINESS PRACTICES; (4) CONFLICTS BETWEEN GOVERNMENTS OVER MNC PROBLEMS AND OTHERS.

3. UNLESS IT WERE THOUGHT DESIRABLE TO HAVE ANOTHER ROUND-TABLE, THE THIRD MEETING OF THE WORKING GROUP COULD BE HELD IN JANUARY TO CONSIDER DRAFT PRINCIPLES WITH THE POSSIBILITY OF HOLDING A FINAL SHORT MEETING PRECEDING THE MARCH 1975 MFM IN BUENOS AIRES. REGARDING THE DRAFTING OF THE PRINCIPLES, THE WORKING GROUP MIGHT SELECT FROM ITS MEMBERS A SMALL DRAFTING COMMITTEE COMPOSED OF SAY SIX OR SEVEN MEMBERS, WHICH COULD BEGIN ITS WORK SHORTLY AFTER THE COMPLETION OF THE ROUND-TABLE MEETINGS OF THE WORKING GROUP. THIS WOULD GIVE THE DRAFTING GROUP TWO TO THREE MONTHS TO TRY TO AGREE ON A DRAFT STATEMENT OF PRINCIPLES FOR SUBMISSION TO THE FULL WORKING GROUP IN JANUARY.

4. THE ORGANIZATION OF THE ROUND-TABLE DISCUSSIONS WOULD OBVIOUSLY REQUIRE CONSIDERABLE COORDINATION AND IT MIGHT BE WELL TO ASK THE COUNTRIES WHICH WILL COMPRISE THE DRAFTING GROUP TO ALSO TAKE THE RESPONSIBILITY FOR ORGANIZING THE ROUND-TABLE DISCUSSIONS. WE WOULD
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HOPE THAT THE MEETINGS OF THE WORKING GROUP SUBSEQUENT TO THE INITIAL MEETING IN WASHINGTON COULD BE HELD IN ONE OR MORE LATIN AMERICAN COUNTRIES.

5. WE WOULD NOT PROPOSE THAT A LARGE AMOUNT OF ORIGINAL RESEARCH SHOULD BE UNDERTAKEN FOR THE ACTIVITIES OF THE WORKING GROUP. WE UNDERSTAND THAT THE OAS SECRETARIAT IS ALREADY COMPILING EXISTING STUDIES ON MNCS PURSUANT TO A RECENT OASGA RESOLUTION WHICH DIRECTED THE PERMANENT COUNCIL TO STUDY THE MNC QUESTION. WE WOULD EXPECT THE MFM WORKING GROUP TO CONSULT CLOSELY WITH THE OAS AS IT PROCEEDS WITH ITS TASK.

6. WE REALIZE THAT THERE ARE A NUMBER OF ALTERNATIVE

APPROACHES TO THE TASK WHICH HAS BEEN ASSIGNED TO THE WORKING GROUP AND WE WOULD OF COURSE WELCOME SUGGESTIONS BY OTHER COUNTRIES AS TO HOW THE WORKING GROUP MIGHT MOST EFFECTIVELY GO ABOUT ITS BUSINESS. WE SEE AS THE MAIN ADVANTAGE OF THE APPROACH THAT WE WILL BE PROPOSING THAT IT WOULD PERMIT THE WORKING GROUP TO HAVE THE BENEFIT OF DISCUSSION OF THE ACTIVITIES OF THESE CORPORATIONS AND THE PRACTICAL QUESTIONS ASSOCIATED WITH THEIR OPERATIONS BEFORE IT ATTEMPTS TO AGREE UPON GENERAL PRINCIPLES. IF THIS PROCESS RESULTS IN GREATER COMMON UNDERSTANDING AMONG THE MEMBERS OF THE WORKING GROUP, IT SHOULD FACILITATE THE NEGOTIATING OF THE STATEMENT OF PRINCIPLES.

7. FYI. THE USG HAS NOT GIVEN UP ON THE IDEA OF AN INVESTMENT DISPUTE FACT-FINDING OR CONCILIATION PROCEDURE AS PROPOSED BY THE SECRETARY AT THE MEXICO MFMM. GIVEN THE COOL RECEPTION GIVEN THE PROPOSITION BY THE TATINS, WE DO NOT BELIEVE IT WISE TO MAKE THIS A PROMINENT ELEMENT OF OSR PROPOSALS, AT LEAST AT THIS PRELIMINARY MEETING.

8. PLEASE EMPHASIZE TO HOST GOVERNMENT THAT THE USG INTENDS TO FIELD A DELEGATION WHICH INCLUDES EXPERTS IN THE MNN AREA, AS WELL AS POLICY-LEVEL OFFICIALS. WE HOPE THAT THE OTHER COUNTRIES WILL ALSO

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SEND REPRESENTATIVES WHO WILL BE BOTH KNOWLEDGEABLE IN THE FIELD AND EMPOWERED TO TAKE DECISIONS REGARDING THE FUTURE OF THE WORKING GROUP.

9. PLEASE REPORT ANY HOST GOVERNMENT REACTION TO YOUR PRESENTATION AS SOON AS POSSIBLE. KI

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